

Agilent Ref: 10031269-1  
United States Application Serial No. 10/712,741

### **REMARKS**

In view of the following remarks, the Examiner is requested to withdraw the rejections and allow Claims 1-39, the only claims pending and currently under examination in this application.

#### **Formal Matters**

Claims 1-39 were examined.

Claims 1-26, 28-31, and 39 were rejected.

Claims 27 and 32-38 were allowed.

Claims 1, 20, 26, and 39 have been amended to specify that at least one gasket forms a bounded area on the surface of a substrate for containing a fluid wherein a gas permeable membrane is supported by said surface. Support for this amendment can be found throughout the specification, in particular at Paragraphs [0076] and [0081] and Figs. 1A and 1B.

Claims 2, 3 and 28 have been amended in order to correct a typographical error.

Claims 11, 13, 16, and 29 have been amended in order to provide explicit antecedent basis for the limitations recited by the Examiner in the Office Action.

The specification has been amended in Paragraphs: [0011], [0019], [0075], [0083], [00106], [00116], [00121], [00129], [00132], and [00138] in order to address the typographical errors pointed out by the Examiner.

As the above amendments enter no new matter to the application, their entry is respectfully requested.

#### **Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 11, 13, 16, and 28-31 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. This rejection is respectfully traversed. In view of the above amendments to Claims 11, 13, 16, and

Agilent Ref: 10031269-1  
United States Application Serial No. 10/712,741

28-29, and because Claims 30-31 depend from Claim 28, this rejection may be withdrawn.

**Rejection under 35 U.S.C. § 102**

Claims 1-26 and 39 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Gerner et al. (U.S. Patent Application No. 2003/0010213). The Applicant respectfully traverses the rejection.

In order to anticipate a claim, the cited reference must teach all of the limitations of the claimed invention. For the reasons set forth below, Gerner et al. fails to teach a substrate having a surface comprising at least one gasket, **wherein said gasket forms a bounded area on said surface for containing a fluid; and a gas permeable membrane, wherein said membrane is supported by said surface.**

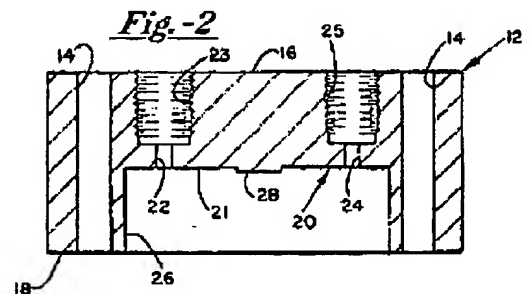
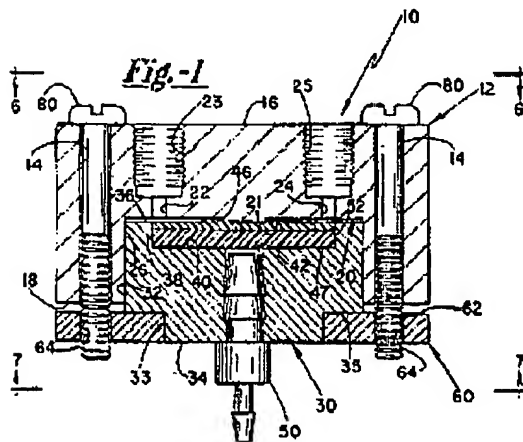
As amended, independent Claims 1, 20, 26, and 39 clearly specify that at least one gasket forms a bounded area on the surface of a substrate for containing a fluid and a gas permeable membrane supported by said surface. As such, the **membrane and the gasket are located on the same substrate.**

In making the rejection, the Examiner asserts that Gerner et al. teaches every element of the present invention. However, as demonstrated below, the Applicant submits that Gerner et al. fails to teach a substrate that includes a gasket, which forms a bounded area for containing a fluid and a gas permeable membrane supported by the same substrate.

Gerner et al. discloses a flow-through vacuum degassing unit for degassing a mobile phase in a liquid chromatography application. The degassing unit comprises a housing element, which includes a recessed portion and an insert 30, which fits into the recessed portion 20. Figure 1 below is an exemplary embodiment of the housing element with the insert placed into its recessed portion. Figure 2 is an example of the housing element alone. According to Gerner's specification, the

Agilent Ref: 10031269-1  
United States Application Serial No. 10/712,741

housing unit includes a gap (46) which is dimensioned to provide a space for evenly distributed fluid flow between inlet channel (22) and outlet channel (24). As shown in Figure 3 of the patent, the insert can include a gas permeable membrane (90), on top of a diffusion member (52). The gas permeable membrane degasses the fluid flowing in the gap (46) of the housing element.



As clearly demonstrated in Figures 1 and 2 above, Gerner's insert does not include a gasket for containing a fluid. Furthermore, the only way fluid can be degassed through the membrane is for the insert to be fitted into the recess of the housing element. As such, the gap for containing the fluid and the gas permeable membrane are each located on completely different structures.

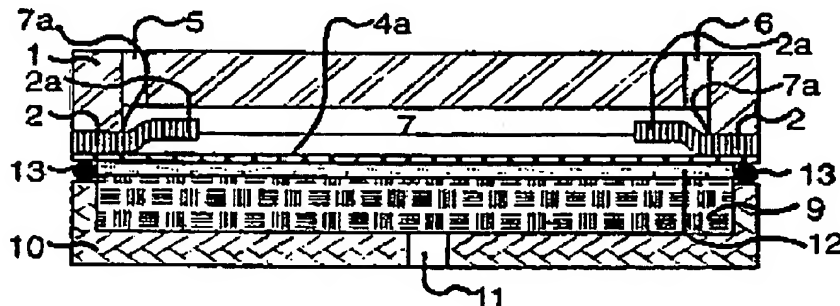
Therefore, Gerner et al. fails to teach a substrate, which serves as support for a gas permeable membrane and which further includes at least one gasket forming a bounded area for containing a fluid. As such, Claims 1-26 and 39 are not anticipated by Gerner et al. because the reference does not teach all of the elements of the claimed invention. Therefore, the rejection of the Claims under 35 U.S.C. § 102(e) over Gerner et al. may be withdrawn.

Claims 1-26 and 39 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Berdt et al. (U.S. Patent No. 6,258,154). The Applicant respectfully traverses this rejection.

Agilent Ref: 10031269-1  
 United States Application Serial No. 10/712,741

As discussed above with respect to Gerner et al., Claims 1, 20, 26, and 39 clearly specify that at least one gasket forms a bounded area on the surface of a substrate for containing a fluid. The substrate further supports a gas permeable membrane. The Applicant contends that Berdt et al. fails to teach a gas permeable membrane and a bounded area for containing a fluid located on the same substrate. As set forth below, Berdt teaches a substrate configured for supporting a membrane, which does not include a bounded area for containing a fluid.

As evident from the Figure below, Berdt's degasser comprises a main body (1) which includes a fluid inlet channel (5), a fluid outlet channel (6) and a space (7) for containing fluid. Attached to the main body is a gas permeable layer (12) supported by a glass frit (9). The fluid in area (7) is degassed by applying a vacuum to the gas permeable membrane (12). Berdt discloses that the gas permeable membrane and the glass frit may be further supported by a cover (10).



However, it is clear from the Figure above, that nowhere does the glass frit (9) or the cover (10) include a gasket which forms a bounded area for containing a fluid. It is clear that the fluid is contained in area (7) which is located in the main body and not on the frit or the cover supporting the gas permeable membrane. As such, the area (7) for containing a fluid is completely separate from the substrate, which supports the gas permeable membrane.

Agilent Ref: 10031269-1  
United States Application Serial No. 10/712,741

Because the Berdt et al. reference fails to teach the element of the claimed invention in which **a substrate comprises at least one gasket which forms a bounded area for containing a fluid and a gas permeable membrane supported by the same substrate**, it is respectfully submitted that Claims 1-26 and 39 are not anticipated under 35 U.S.C. § 102(b) over Berdt et al. and that this rejection may therefore be withdrawn.

Agilent Ref: 10031269-1  
United States Application Serial No. 10/712,741

**CONCLUSION**

The Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone Dianne Rees at 650-485-5999.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078.

Respectfully submitted,

Date: 10.21.05

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